

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:)

City of Rialto)
150 South Palm Avenue)
Rialto, California 92376)

Complaint No. R8-2004-0012
for
Mandatory Penalties

YOU ARE HEREBY GIVEN NOTICE THAT:


1. The City of Rialto is alleged to have violated provisions of law for which the California Regional Water Quality Control Board (Board), Santa Ana Region, must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385 (h) and (i).
2. A hearing concerning this complaint will be held during the board's regular meeting on March 12, 2004 in Fountain Valley, unless the City of Rialto waives its right to a hearing. Waiver procedures are specified on Page 2 of this complaint. The City of Rialto or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda announcement for the meeting will be mailed to you not less than 10 days prior to the hearing.
3. If the March 12, 2004 hearing is held, the Board will consider whether to affirm, reject, or modify the proposed mandatory penalty or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - a. On September 1, 1995, the Board adopted Waste Discharge Requirements (WDR) Order No. 95-50 (NPDES No. CA0105295), for the City of Rialto. On June 1, 2001, the Board adopted WDR Order No. 01-4 to replace Order No. 95-50. These requirements regulate discharges of waste from Rialto's sewage treatment plant (STP).
 - b. The City of Rialto submitted self-monitoring reports (January 2000 – June 2001) for the STP, which show effluent limit violations of pH and total coliform. These violations are summarized on Attachment "A", which is Page 4 of this complaint.
5. Water Code Section 13385 (h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each effluent limit violation, not counting the first three violations if they are considered non-serious.

6. As shown in Attachment "A", the City of Rialto incurred a total of twenty-seven (27) violations between January 2000 and June 2001. Twelve (12) of these violations have already been addressed by Mandatory Penalties Complaint No. 00-72 that was issued on September 1, 2000¹. In addition, eleven (11) incidents that were identified in Complaint No. 00-72 were incorrectly identified as violations. As such, the City of Rialto was overcharged \$33,000.
7. In accordance with Water Code Section 13385 (h) and (i), the mandatory minimum penalty for the fifteen (15) new violations cited in Attachment "A" is \$45,000.
8. In accordance with Water Code Section 13385(c), the Board may impose administrative civil liability for the fifteen (15) violations cited in Attachment "A". The maximum administrative civil liability that may be imposed for these violations is \$150,000 (\$10,000 per day of violation), plus an additional assessment of \$10 per gallon of effluent discharged during the duration of the violation episode, in excess of the first 1000 gallons of effluent.
9. The Executive Officer proposes that a mandatory penalty of \$45,000 be imposed on the City of Rialto by the Board for the violations cited above, less the \$33,000 that the City was overcharged in Complaint No. 00-72. Consequently, the total penalty to be paid under this complaint is \$12,000.

You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver, which is Page 4 of this complaint, and return it together with a check payable to the State Water Resources Control Board in the amount of the mandatory penalty in paragraph 8, above.

If you have any questions regarding this complaint, please contact the undersigned, at (909) 782-3284, or Gary D. Stewart, Surveillance and Enforcement Section Chief at (909) 782-4379, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

1-27-04
Date


Gerard J. Thibeault
Executive Officer

¹ The City of Rialto subsequently paid the \$60,000 penalty for the 23 "violations" identified in the complaint.

ATTACHMENT "A"

MONTH/YEAR	WEEKLY AVERAGE COLIFORM VIOLATIONS	pH VIOLATIONS < 6.5 pH UNITS > 8.5 pH UNITS > 60 MINUTES (A) > 446 MINUTES (B)		TOTAL NUMBER OF VIOLATIONS	NUMBER OF VIOLATIONS SUBJECT TO MANDATORY PENALTIES UNDER COMPLAINT NO. R8-2003-0121
		A	B		
January 2000	1*	3	1	5	4
February 2000	0	1	0	1	1
March 2000	0	1	0	1	1
April 2000	0	11* + 1	1	13	2
May 2000	0	2	1	3	3
June 2000	0	0	0	0	0
July 2000	0	2	0	2	2
August 2000	0	0	0	0	0
September 2000	0	1	1	2	2
October 2000	0	0	0	0	0
November 2000	0	0	0	0	0
December 2000	0	0	0	0	0
January 2001	0	0	0	0	0
February 2001	0	0	0	0	0
March 2001	0	0	0	0	0
April 2001	0	0	0	0	0
May 2001	0	0	0	0	0
June 2001	0	0	0	0	0
TOTAL				27	15

NOTES:

- * = Violations previously addressed under MPC No. 00-72
- {A} = Less than 6.5 pH units or greater than 8.5 pH units for more than 60 minutes
- {B} = Less than 6.5 pH units or greater than 8.5 pH units for more than 7 hours and 26 minutes (446 minutes) within a calendar month



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 FAX (909) 781-6288



Gray Davis
Governor

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.*

January 27, 2004

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Brad Baxter, Director of Public Works
City of Rialto
150 South Palm Avenue
Rialto, CA 92376

MANDATORY PENALTIES COMPLAINT NO. R8-2004-0012

Dear Mr. Baxter:

Enclosed is a copy of Mandatory Penalties Complaint No. R8-2004-0012. The complaint is in response to violations of effluent limitations specified in your waste discharge requirements, Order No. 01-4. It was issued pursuant to California Water Code Section 13385 (h) and (i) and proposes a penalty of \$45,000 for twenty-seven violations that occurred between January 2000 and June 2001. Complaint No. 00-72 addressed twelve of these violations. In addition, the City was overcharged \$33,000 in Complaint No. 00-72 for eleven incidents that were incorrectly identified as violations. This amount is being subtracted from the penalty identified in Complaint No. R8-2004-0012. Please note that this complaint also supercedes Complaint No. R8-2002-0061 that was sent to you on July 31, 2002.

Should you wish to waive your right to a public hearing on this matter, please sign the enclosed waiver form and submit it, along with the bottom portion of the attached invoice and a check or money order for the amount of \$12,000, by February 11, 2004, to the address on the invoice. If you do not wish to waive your right to a public hearing on this matter, a hearing will be held before the Regional Board at its regularly scheduled meeting on March 12, 2004 in Fountain Valley.

Should you have any questions, please contact me at (909) 782-3284, Gary Stewart, Chief of the Board's Surveillance and Enforcement Section, at (909) 782-4379, or Jorge A. Leon, the Regional Board's staff counsel, at (916) 341-5180.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Complaint No. R8-2004-0012
Invoice

California Environmental Protection Agency

Brad Baxter
Complaint No. R8-2004-0012

January 27, 2004

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cc: w/enclosure (Complaint)

U.S. EPA - CWA Compliance Office (WTR-7)
State Water Resources Control Board – Office of the Chief Counsel, Jorge Leon
State Water Resources Control Board – Division of Water Quality
Orange County Coastkeeper
Lawyers for Clean Water
Regional Board

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